

**Submission  
No 72**

## **2012 LOCAL GOVERNMENT ELECTIONS**

**Organisation:** Australian Election Company

**Name:** Mr Richard Kidd

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# AUSTRALIAN ELECTION COMPANY

ABN 58635903913

Phone: 1800 224 420

Fax: 07 5428 1355

G.P.O. Box 394 BRISBANE QLD 4001

email: [rkidd@austelect.com](mailto:rkidd@austelect.com)

[www.austelect.com](http://www.austelect.com)

27 April 2013

Joint Standing Committee on Electoral Matters  
Parliament House  
Macquarie St  
Sydney NSW 2000  
Dear Sir/Madam,

## **Re: 2012 Local Government elections (Inquiry)- NSW Parliament**

Please find our written Submission below.

### **Terms of Reference (a) & (c)**

The costs of Local Government Elections would be reduced if Attendance Voting was replaced by Direct Postal Voting. There are significant costs associated with provisioning polling places with staff and equipment.

Significant dollar savings would accrue and it would be more convenient for electors, if the enrolled electors were automatically sent materials to enable to vote by post and/or by electronic means.

Some Local Government Elections in Australia already are conducted using Direct Postal Voting.

The current NSW State Electoral legislation includes some fairly recently introduced provisions for the application of Internet Voting and Telephone Voting. These provisions were inserted especially for the 2011 NSW State Elections.

Internet (and Telephone) Voting was made available on an essentially "opt in" basis at the 2011 NSW State Elections. Originally the legislation was drafted to permit only those electors who were physically or visually handicapped to "opt in"; however subsequently and before the 2011 State Elections, the legislation was further amended to also permit those electors interstate on election day; or those claiming to be in excess of 20 kilometers from the nearest polling place, to register for and to vote by Internet (or Telephone).

A form of "remote" Internet Voting was used. According to a Report commissioned by the Electoral Commission New South Wales (Allen Consulting Group 2011, Evaluation of technology assisted voting provided at the New South Wales State General Election March 2011, report to the New South Wales Electoral Commission, Sydney, July), apparently some 51,000 electors applied to be "electronic" voters and ultimately just under 47,000 electors used these electronic systems. About 95% of those who did vote electronically used Internet Voting and not Telephone Voting (*this merely confirms a trend we have observed time and again where combined Internet and Telephone Voting is offered by us*); and just under 2,000 electors who were physically or visually impaired used the systems. *It was notable, but not at all surprising, that the great bulk of electronic voters were those electors travelling interstate or living in remote areas.*

The use of electronic voting in 2011 by Electoral Commission NSW seemingly largely was something of an experiment; however the "trial" was reported successful and it could be assumed that the NSW electoral legislation, including local government electoral legislation, could be further amended to say extend electronic voting to all electors qualified to vote by postal voting. *Indeed it would make sense to offer electronic voting to all those electors who would normally qualify for a Postal Vote.*

Again, according to (Allen Consulting Group, 2011) apparently the Electoral Commission NSW spent almost \$3.5 million dollars to procure, develop, test and advertise the system used for the 2011 Elections. *From our perspective and experience, this cost appears to be on the high side.*

Australian Election Company officials have been utilizing and refining electronic voting systems in Australia now since 2000. I was Returning Officer for the 2001, 2003 and 2005 NRMA Motoring Services Board Director Elections. Combined Internet and Postal Voting was first introduced at the 2001 NRMA Motoring & Services Board Elections.

Australian Election Company conducts Elections and Ballots by electronic means, where governance permits the use of the technology. We are highly experienced in managing electoral events using Internet and Telephone Voting technologies.

The voting technology applied by Australian Election Company is Industry Standard Secure Site, 128 bit - Security Certificate. Secure Socket Layer (SSL) encryption technology prevents in-transit data capture and protects both personal information about the voter and the vote itself. The data arrives safely at its confirmed destination and is not viewable by anyone else on the net. The technology is powerful and fully redundant. We have conducted electronic Ballots or Elections with up to 50,000 eligible voters; but scalability is not an issue. By way of example, at the 2009 Centerlink Employee Ballot some 1,200 employees voted by Internet, in the first minute of the Ballot.

All hardware is replicated with full redundancy. The web servers and application servers are load-balanced for best performance. If any piece of the equipment fails, others will service the load until the failed device is returned to service. "State-of-the-art" intrusion detection and firewall systems are applied to ensure that a Ballot/Election server is safe from unauthorized access and denial of service attacks.

*Australian Election Company has adopted a program of continuous improvement and we know and intimately understand electronic voting operations, irrespective of the size and geographic dispersal of the voting population.*

*Accordingly Australian Election Company and its officials are able to offer secure, redundant, remote Internet Voting (and Telephone Voting) should the electoral legislation be so amended to permit electronic voting. However it is recommended any prospective amendments should be written other than in the rather egocentric language exemplified in the existing NSW provisions.*

*Given now, over a decade of experience with electronic voting technology, systems and procedures, we have concluded that Telephone Voting really should not be utilized for other than Referendum/Plebiscite (Yes/No) situations, or where a single constituency election (electing just one candidate) is involved. Where there are multiple elections and/or where there are large numbers of candidates (or groups), there is a tendency for the voters to become confused and be unable to deal with and effectively process all the system prompts; however with the Internet Voting system we use, the voters are able to visualize every step in the process and they can also print a copy of each Internet Voting screen.*

Interestingly, the ECNSW electronic voting system apparently provided for the printing of ballot papers (representing the data tabulations from the electronic voters), rather than direct reliance being placed upon automatic system tabulation. Really, other than to attempt to foster political confidence, it is considered no purpose is served by having the system produce "ballot papers".

## **Terms of Reference (a) & (f)**

Australian Election Company assisted with the management and conduct of a number of outsourced NSW Council Elections.

Whilst it is recognized that the 2012 event certainly represented a transitory phase, as a general approach, statutory provisions really should not be amended during the lead up to or during the Election period. We had to quite constantly vary forms/materials documentation and training materials given regulatory amendments or otherwise await the receipt of clarifying information before we could settle materials content, format or details. These influences placed (unnecessary) strains on operational planning, materials planning and supply arrangements. They also caused inefficiencies and added costs to our operations.

The fact that certain regulatory changes were hurriedly introduced also had the impact that some necessary, consequential revisions were overlooked by the drafters. The quick change made to postal voting witness provisions represents a clear case in point.

The regulatory changes impacting postal voting tend to undermine real election integrity. There is no longer any witness to a postal application; and there were no signature checks conducted in relation to votes returned by General Postal Voters. NSW electoral legislation (for State and now for Local Government Elections) also permits Applications for Postal Votes to be made without the requirement for signature of the applicant. This has the effect, that where returned postal votes are being dealt with by a Returning Officer, the Returning Officer has no signature of applicant to compare against the signature of a voter, as appearing on the Postal Declaration Envelope.

***Australian Election Company believes such an approach has the propensity not only to compromise the integrity of the election process, but also to increase the potential for fraud in Postal Voting.***

*Accordingly Australian Election Company sees no alternative to mandating that applicants for Postal Votes sign their Applications; unless Attendance (Polling Booth) Voting was withdrawn and all electors became direct (automatic) Postal Voters.*

*In addition, further in relation to Declaration Voting, consideration should be given to amendment of Regulation 391A. The ECNSW should be provided copies of Declaration Vote Envelopes and the "live" Envelopes should be retained by the Returning Officer.*

Overall the Regulations really could be considerably improved; presently they tend to reflect a "grab bag" of ideas and concepts, but without complete logical structure. The provisions of the Act dealing with formality and informality of ballot papers also really presents as a "bits and pieces" approach; indeed a higher level of consistency in the detail contained in provisions could be utilized, ultimately to the benefit of electors.

We also perceive that the design/format of the "Above/Below the line" ballot paper (Form 6) actually may generate a propensity for the casting of informal votes. The listing of (corresponding) Group Headings "Below the Line" seems to confuse a significant number of voters; the voters mark their ballot paper with a "1" "Below the line" instead of placing the "1" in the relevant (corresponding) Group Voting Square "Above the line".

Australian Election Company provided client Councils with materials, forms and resources that maintained strict compliance with the Act and the Regulations. Although the Regulations prescribe certain forms or mention "Approved Forms", Australian Election Company conducted a detailed analysis of the Act and the Regulations and then set about developing forms and materials covering each element of the Election process, where there appeared to be a requirement to document or record that element of process. Accordingly the forms and materials that were applied potentially exceeded the requirements of the legislation and the Regulations, without presenting complexity of use for form users.

Through provision of a compliant election process, the timetabling/scheduling of all statutory-based processes/requirements were in strict compliance with the Act and Regulations.

Australian Election Company provided a comprehensive Procedures Manual for Returning Officers, and Returning Officers attended a pre-Election Training Seminar. All Returning Officers were equipped with necessary stores and resources to commence operations "on the ground" on 24 July 2012 and then, as the election process unfolded, the remaining stores/items/resources were provided to Returning Officers. Manuals and training enhancements/materials were also provided for the other categories of Electoral Officials. Polling Place Managers, Deputy Polling Place Managers and Declaration Officers received "face to face" training; Ordinary Issuing Officers (including other categories of polling place officials) received PowerPoint training in addition to issue of a Manual.

Rolls closed for the Elections on 30 July 2012. The Electoral Commission NSW (ECNSW) sought signed Undertakings from our Returning Officers regarding the provision of a data "look up" facility.

Critically, and unfortunately, actual soft copy Electoral Roll data was not provided by ECNSW to Australian Election Company; although Candidates, upon application, could be provided the data. This also "flies in the face" of our previous involvement with QLD Local Government Elections and the provision of electoral roll data through Electoral Commission, Queensland. In the context of Queensland Local Government Elections, we have made formal requests for roll data and roll products and the data and products have been directly provided to us from the Australian Electoral Commission; subsequently we were invoiced for and made payment to Electoral Commission Queensland for the roll data and those roll products.

In addition, the ECNSW imposed further conditions in relation to data access in that any Australian Election Company laptop computer provided to any Returning Office could not be utilised for any activities associated with roll data access (look-up) facilities; notwithstanding that the laptops were "stand alone" not being networked in any way. Not surprisingly this severely impacted operational capacity and efficiency in relation to fundamental and critical activities involving Nominations eligibility checking; enquiries management; the issue of postal votes; and vote validation.

*If outsourcing is to be applied in respect to future Council Elections, the electoral data will have to be provided through the ECNSW to any relevant NSW Council Election Provider. This was a fundamental impediment to operational efficiency and service provision.*

*Any reputable professional Election Services Provider will willingly provide a formal Deed of Secrecy and Confidentiality in relation to the access and use of data, just for Election purposes.*

Further practical difficulties also were encountered with the validation of Declaration Votes. Within the Queensland Local Government Election setting, as an external Election Provider, Australian Election Company has been able to seek the assistance of Electoral Commission Queensland to review whether Declaration Votes (not on roll votes) should be admitted or rejected at preliminary scrutiny. The review process involves access and consideration of an elector's enrolment history. The Electoral Commission, Queensland subsequently advises the Returning Officer the outcome of the enrolment check with a decision to accept or reject. There was no equivalent service offered for the 2012 NSW Local Government Elections.

The recruitment of Returning Officers and polling officials overall presented few issues, although there did appear to be something of a competition unfolding at one stage, with Australian Election Company and the ECNSW each concurrently actively promoting and conducting recruitment processes.

There was (and is) however no level playing field in terms of the inherent costs for Returning Officers, Election Casuals and Polling Officials, including all their allowances etc. As a private sector company, Australian Election Company was (is) obliged to cover the burden of NSW Payroll Tax. The impact of the Payroll Tax is that our staffing costs, compared with those of ECNSW, have to include a 5.45% premium or surcharge on the total staffing costs. Both ECNSW and the Councils (if the Councils directly pay their staffing costs) are exempt from the payment of Payroll Tax. The Payroll Tax costs (in future) will have to be passed onto Councils, but this of course will have the direct effect that Councils choosing to utilise any private Election Provider services will also be cost disadvantaged, having to cover a 5.45% premium on the total staffing costs. Either the Payroll Tax exemption should be removed so that ECNSW (and the Councils) have to pay the Tax; or private Election Service Providers conducting NSW Council Elections also should be provided the Tax exemption.

The conduct of the Polling on Election Day proceeded smoothly and essentially uneventfully. All Polling Places were equipped to a high standard and no Polling places ran out of ballot papers.

Polling night activities overall went very well in Returning Officer's offices. However we were very disappointed that the input of Polling Night Results to our website was significantly slower than anticipated.

*For future Local Government Elections, Australian Election Company will apply a specially developed Election Night Package which will enable direct, controlled entry by Returning Officers. This will also avoid the caching problem experienced by some visitors to our site not being able to see or access Results that indeed had been updated.*

At our Ballot Scanning Centre attending Scrutineers were briefed as to the processes being applied. Some Scrutineers who attended the Scanning Centre sought and were granted permission to take a photographic record of the various processes. Scrutineers who photographed facets of the operation remarked about the organised, professional nature of the Scanning Centre; one remarking, that in her long experience as a Scrutineer, she had never before seen such a tidy, organized, efficient "Counting Centre" process.

Through our electronic Ballot Scanning process and operation, Australian Election Company provided client Councils a cost effective, professional, accurate, service. Our perception is that, on balance, we delivered these quality outcomes and in timely fashion, apparently by comparison with 2008 Election experiences.

*However, we will consider the merits of continuing to electronically scan all Councillor "Above & Below the line" ballot papers, and in consideration of other initiatives we will put in place, we will be positioned to derive accelerated outcomes, but without degradation in quality assurance or accuracy.*


In terms of provision of Returning Officer staffing and training, it certainly was neither planned nor anticipated, that in the same Council Area, two (2) (consecutively) appointed Returning Officers would fall ill (with differing health issues). We also lost another Returning Officer in a neighbouring Council Area, again because of health issues. In each of these instances we responded quickly with provision of suitable replacement(s) and the managed transitions were quite seamless.

*However, at future events we will recruit and train an increased number of "Reserve" Returning Officers. For the 2012 event our Returning Officers were provided five (5) days "face to face" training at a Training Session convened in Nelson Bay, during early June 2012; and all "on the ground" Returning Officers subsequently received ongoing mentoring and direction from Australian Election Company.*

As already noted above in this Submission, Polling Place Managers, Deputy Polling Place Managers and Declaration Officers received "face to face" training conducted by the Returning Officer; Ordinary Issuing Officers (including other categories of Polling Officials) each received a Manual and also were provided a PowerPoint presentation pertinent to their role and functions.

We are proud of our achievements and look forward to assisting NSW Councils in the future.

Yours faithfully,

A large black rectangular redaction box covering the signature area.

Richard Kidd  
Director/Principal  
Australian Election Company  
[www.austelect.com](http://www.austelect.com)